

**MINUTES**  
**MICHIGAN STATE TRANSPORTATION COMMISSION MEETING**  
**October 26, 2006**  
**Lansing, Michigan**

Meeting noticed in accordance with Open Meetings Act, Public Act 267 of 1976.

Present:                Ted B. Wahby, Chair  
                             Maureen Miller Brosnan, Commissioner  
                             Vincent J. Brennan, Commissioner  
                             James R. Rosendall, Commissioner

Also Present:        Kirk Steudle, Director  
                             Larry Tibbits, Chief Operations Officer  
                             Frank E. Kelley, Commission Advisor  
                             Marneta Griffin, Commission Executive Assistant  
                             Jerry Jones, Commission Auditor, Office of Commission Audit  
                             Patrick Isom, Attorney General's Office, Transportation Division  
                             Brenda O'Brien, Engineer of C&T, Highway Delivery  
                             Mark VanPortFleet, Highway Development  
                             Wayne Roe, Jr., Finance and Administration  
                             Ronald DeCook, Director, Office of Governmental Affairs  
                             Rob Abent, Bureau Director, Aeronautics and Freight Services  
                             Patricia Collins, Office of Business Development

Excused:             Linda Miller Atkinson, Vice Chair  
                             James S. Scalici, Commissioner

A list of those people who attended the meeting is attached to the official minutes.

Chair Wahby called the meeting to order at 9:00 a.m. in the Bureau of Aeronautics Auditorium in Lansing, Michigan.

**I.        COMMISSION BUSINESS**

Commission Minutes

Chair Wahby entertained a motion for approval of the minutes of the State Transportation Commission meeting of September 28, 2006.

Moved by Commissioner Brosnan, with support from Commissioner Rosendall, to approve the minutes of the Commission meeting of September 28, 2006. Motion carried.

## II. **DIRECTOR'S REPORT – DIRECTOR KIRK STEUDLE**

The “Transportation Costs” presentation by Larry Tibbits, Chief Operations Officer, will be postponed until the November meeting, while additional data is gathered.

Director Steudle’s presentation focused on:

### **Local Jobs Today**

Current totals: State Local Match – \$47,905,595; Jobs Today Match (MML and CRAM) – \$47,905,595 (FY 2006 – \$9,686,657, FY 2007 – \$38,218,938); project cost (MML and CRAM) – \$306,344,675 (FY 2006 – \$60,363,661, FY 2007 – \$245,981,014).

Projects approved (MML and CRAM) – 212 (FY 2006 – 58, FY 2007 – 154); HPP projects approved – 55; total HPP Jobs Today Match – \$26,322,795; total HPP project cost – \$157,828,071.

Director Steudle read a letter of thanks written to the Department from Mr. John M. Gaydos, Engineering Manager, City of Bay City, regarding JN 86678A Wenona Avenue—Ivy Street North to Ionia Street. The letter says in part: “The ‘Jobs Today’ program implemented by the Governor..., as conceived, was very different than the programs that the City usually follows when funding road projects. Public employees face many criticisms from the public at large and many of the good things that happen go unrecognized. The Wenona Project in Bay City was put together in a short period of time in order to qualify for the ‘Jobs Today’ program. This project faced many last minute issues that needed to be resolved. The cooperation that the City received from MDOT staff was excellent. I particularly want to recognize the following MDOT staff for their help in bringing the Wenona Project forward: Tina Hissong and Staff (Rail Safety), Mark Harbison (Local Agency Programs), Chris Youngs (Local Agency Programs), Sheila Masters (Local Agency Programs). I am sure that there were other individuals that assisted with bringing our project forward that I failed to mention and I apologize to them whoever they are...”

This is an extraordinary letter for an extraordinary program. The four staff people mentioned here, as well as a host of others, has been on point when Local Jobs projects have come through to make sure that they don’t slip. It is easy for some things to slip when something else takes priority, however these staff people have let nothing slip. They have been going over and above to make sure that the Departments’ mission gets completed and gets completed on time.

## III. **OVERSIGHT**

### **Commission Agreements (Exhibit A) – Wayne Roe, Jr.**

Mr. Roe stated that information on 60 projects and agreements were given for review. Pending any questions, Mr. Roe asked for approval of Exhibit A.

No questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Brennan and supported by Commissioner Rosendall to approve Exhibit A. Motion carried on a unanimous voice vote.

Bid Letting Pre-Approvals (Exhibit A-1) – Wayne Roe, Jr.

Mr. Roe gave a brief re-cap of the October 2006 bid letting activities: 37 State projects with total engineers' estimates of \$56.9 million were let. The low bids announced on these projects totaled \$52.3 million; average low bid was \$1.4 million. One of these items had the low bid of \$13.7 million. Twenty-two items with total low bids of \$23.9 million had warranties. An additional four items with engineers' estimates totaling \$46.5 million that were scheduled to be let on October 6 were postponed. A special letting was held on October 20<sup>th</sup> for three of those postponed items, with total engineers' estimates of \$44.7 million. In October 2005, 53 State projects were let with low bids totaling \$48.5 million and an average of \$915 thousand.

The total number of bids submitted for this letting was 287, of which 158 were submitted for State projects. There was an average of 5.1 bids submitted for each item that was let, and an average of 4.3 bids for each State item. Of the 415 contractors eligible to submit bids using Bid Express, 120, or 29%, submitted bids for this letting.

There are currently 38 State items with engineers' estimates totaling \$91.5 million scheduled to be let on November 3, 2006. Twenty-one of these items have warranties. In addition to these State items, 37 of the 46 local agency items scheduled to be let include projects in the "Jobs Today, Jobs Tomorrow" program.

Pending any questions, Mr. Roe asked for approval of Exhibit A-1.

No questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Brennan and supported by Commissioner Brosnan to approve the October bid letting. Motion carried on a unanimous voice vote.

Letting Exceptions Agenda (Exhibit A-2) – Mark VanPortFleet

Mr. VanPortFleet reported on 1 Local agency project that was 10% over the engineer's estimate which is accompanied by a justification memo. Pending any questions, Mr. VanPortFleet asked for approval of Exhibit A-2.

No questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Rosendall to approve Exhibit A-2. Motion carried on a unanimous voice vote.

Contract Adjustments (Exhibit B) – Brenda O’Brien

Ms. O’Brien has 12 MDOT projects (7 of these have corresponding negative offset adjustments) and 2 Local Agency projects, before the Commission. Pending any questions, Ms. O’Brien asked for approval of Exhibit B.

Commissioner Rosendall asked, regarding Item #2006-143 (bridge rehabilitation on US-223 in Lenawee County), for an explanation on why we gave back \$44,000; now we are getting a charge back of \$57,000 for traffic control because we had to extend the contract.

Ms. O’Brien explained that whenever we have approved extensions of time on a project, based on our specifications we make adjustments to the traffic control items.

Commissioner Rosendall then asked if, when the change order for the deduction was originally made, were we aware that there were going to be extensions that were needed for time.

Ms. O’Brien answered that she was not sure; she did not know specifically what that adjustment/deduction was for without having the contract modification in front of her. She stated that it was probably for an unrelated item to the extension of time.

No other questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Rosendall and supported by Commissioner Brennan to approve Exhibit B. Motion carried on a unanimous voice vote.

IV. **APPOINTMENTS**

Local Bridge Advisory Board Appointment – Mark VanPortFleet

Mr. VanPortFleet asked the Commission to approve the appointment of Mr. Patrick Bush to the Local Bridge Advisory Board to fill the Michigan Municipal League vacancy for a community with a population of greater than 75,000. Mr. Bush is the Public Works Director for the city of Grand Rapids, and will be filling the vacancy left by Mr. Bill Cole, which will expire on December 31, 2006.

Chairman Wahby entertained a motion for approval. Motion was made by Commissioner Brennan and supported by Commissioner Brosnan to approve the appointment of Patrick Bush. The motion carried on a unanimous voice vote.

VI. **PRESENTATIONS**

2007 State Transportation Commission Meeting Schedule – Frank E. Kelley

Mr. Kelley stated that these dates have been set for next year (2007), and if no objections, asked for approval. He noted that the August 2007 date is set for the 3<sup>rd</sup> Thursday in consideration of the Labor Day weekend. He further noted that the November 2007 date is **after** the Thanksgiving holiday.

Chairman Wahby entertained a motion for approval of the 2007 Meeting Schedule. It was moved by Commissioner Brosnan, with support from Commissioner Brennan to approve the 2007 schedule as submitted. The motion carried on a unanimous voice vote.

Fiscal Year 2005-2006 Letting Statistics – Wayne Roe, Jr.

Mr. Roe gave a brief PowerPoint presentation on the MDOT construction contracting activities during fiscal year 2005-2006.

**Bid Lettings:**

During FY 2006, MDOT took bids on a total of 892 projects, 476 of which were for work on state trunklines. The remainder of the projects was a combination of local projects (370), aeronautics projects (44), and two railroad (Multi-Modal) projects. The total dollar amount of state trunkline low bids was \$956.2 million compared to \$894.6 million for fiscal year 2005, a 6.9% increase. State trunkline projects represented 53.4% of the number of projects let and 73.1% of the low bid dollars. The low bids of other projects let totaled \$276.3 million. There were twelve lettings held with 293 different bidders submitting a total of 4,432 bids.

**Bid Rejections:**

Of the 892 projects let, all bids were rejected on 16, six of which were State items. In addition, the low bids were rejected on three projects, and two of those were appealed to the Department. Of the two appeals, both were upheld.

**Design of State Projects:**

Based on dollar value 59.5% was designed by a consultant in FY 2006 (59.1% in FY 2004, and 49.0% in FY 2005).

**Pre-qualified Contractors:**

As of the end of the fiscal year, there were 673 pre-qualified construction contractors. Of these, 189 contractors worked on projects as prime contractors during the year. Ten of the prime contractors were awarded 48.5% of the work awarded.

Commissioner Brennan asked if he understands correctly that the number of contractors pre-qualified to bid on jobs greater than \$20 million is 126.

Mr. Roe answered that what we are trying to do is break them up by dollar value. For example, any vendor that has \$100 million or above can bid on any job under \$100 million.

Commissioner Brennan noted that there are 66 contractors that can bid on \$100 million or more, and asked how that compares to previous years in terms of raw numbers.

Mr. Roe stated he could get the information for him.

Director Steudle added that these numbers indicate the contractors that have the financial capability of bidding on a project that large. It does not mean that if there was a project

that was \$100 million that they would bid on it, or five projects that are \$20 million; it's accumulative of all the projects, all the work that they have.

**Projects by Region—Total Dollars:**

The bulk of our work was in the Metro Region (\$409.14 million—32%); Bay Region (\$228.38 million—17%); University Region (\$171.94 million—13%); Southwest Region (\$165.33 million—13%); Grand Region (\$136.21 million—10%); North Region (\$102.22 million—8%); Superior Region (\$94.38 million—7%); and Statewide (\$0.35 million—0%).

**Projects by Region—Number of Projects:**

Metro Region (153—18%); University Region (153—18%); Bay Region (146—16%); North Region (126—14%); Superior Region (111—12%); Grand Region (110—12%); Southwest Region (91—10%); and Statewide (2—0%).

**Contractor Payments:**

During the year, 13,014 estimates resulting in 17,878 payment vouchers paid to contractors for a total of \$1.2 billion.

**Process Improvements:**

Electronic plans and proposals were piloted for state jobs, and were implemented in late 2006.

MDOT continues to pilot major improvements to the construction subcontracting process, with full implementation scheduled for early 2007.

“Pass through” warranty bond concept was developed and will be implemented in the November 2006 letting.

MDOT upgraded to a new version of Expedite, which is used in electronic bidding. MDOT also improved the bidding process by making “fixed price” line items standard (cannot be modified by bidders) for each project, thus eliminating low bid rejections for “fixed price” errors.

Commissioner Brennan asked for explanation of the “pass through” warranty bond concept.

Mr. Roe explained that in the past, prime contractors were expected to provide warranty bonds for some kinds of work, like paving. At times the primes were not the contractors who did that work. For example, a prime contractor that specializes in earth, or bridges, might not perform the paving work; rather, the prime may hire a subcontractor to do that work. Because the prime was supposed to provide a warranty bond, it did, but also asked the subcontractor to provide a bond as well. In essence, there was a double bonding taking place.

By using the “pass through” concept, prime is no longer required to provide the warranty bond for work that it does not do. It is still accountable for the bond, but the subcontractor can provide the bond and pass it through the prime. As long as the project

is active, the department holds the prime responsible for any work that needs to be done. Once the project is finalized, then the department works with the subcontractor that had the warranty bond, and addresses any warranty issues with that subcontractor, rather than the prime.

Commissioner Brennan asked about the former way the department bonded, and the new way, and got the clarification indicated above.

No other questions were forthcoming. There is no action required.

Disadvantaged Business Enterprise (DBE) Program Overview and Proposed Fiscal Year 2007 DBE Goals – Patricia Collins, Administrator, Office of Business Development

Ms. Collins introduced other staff from the Office of Business Development: Terrence Hicks, Director; Nick Sundburg, Departmental Analyst; and Jeanne Day-Labo, Specialist.

Pursuant to requirements of the U.S. Department of Transportation's regulations at 49 CFR Part 26, the Michigan Department of Transportation has completed its annual review to develop the overall goal for Disadvantaged Business Enterprise (DBE) participation.

Some of the major accomplishments/activities include: Held networking sessions (over 300 participants); held orientations for new and recertifying DBE's; partnered with many organizations (Chambers of Commerce, Construction Association of Michigan, Michigan Minority Business Development Council, Association of Women in Construction, Michigan Infrastructure Transportation Association (MITA), Native American Tribal Council's, The Hispanic Alliance, American Council of Engineering Companies (ACEC), Asphalt Paving Association of Michigan (APAM), and several others); provided training to over 400 DBE's (Field Manager and Bid Express, business marketing, bonding insurance, business tax return preparation, and wage rate and payroll requirements); partnered with other state agencies (DMB, Civil Rights, DLEG, and MEDC); held meetings with each MDOT Region (over 150 participants); and continued exploration of options to maximize program delivery.

Long-term goals for the DBE Program are: Enable small businesses to become more competitive; increase awareness of MDOT's DBE program; continue compliance with Title VI of the Civil Rights Act of 1964; foster partnering efforts with associations, government agencies and the business community; provide opportunities for DBE's and private contractors to network; and foster DBE growth and development.

Total MDOT DBE preliminary participation in FY 2006 for DBE dollars earned on federal, state and local contracts is \$125,164,826.00. The projected total for FY 2007 is \$159,637,071.00.

It is recommended that the State Transportation Commission adopt a DBE Goal of 11% for FY 2007. It is expected that the recommended goal will be met through race-conscious (8.5%) and race-neutral (2.5%) means.

Ms. Collins asked for questions; none were forthcoming.

Chairman Wahby entertained a motion for approval of the Proposed Fiscal Year 2007 DBE Goals. It was moved by Commissioner Brennan, with support from Commissioner Brosnan to approve the Fiscal Year 2007 DBE Goals as submitted. The motion carried on a unanimous voice vote.

VI. **PUBLIC COMMENTS**

Chair Wahby asked if any member of the audience wanted to address the Commission.

None were forthcoming.

Chair Wahby asked if any Commissioner wanted to address the Commission.

Commissioners Brennan and Brosnan welcomed Chair Wahby back after his absence last month.

Chair Wahby thanked everyone for their well wishes, thoughts and prayers during his recent recuperation from surgery.

No other comments were forthcoming.

**ADJOURNMENT**

There being no further business to come before the Commission, Chair Wahby declared the meeting adjourned at 9:42 a.m.

The next full meeting of the Michigan State Transportation Commission will be held on November 16, 2006, in the Bureau of Aeronautics Auditorium in Lansing, Michigan, commencing at the hour of 9:00 a.m.

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Frank E. Kelley  
Commission Advisor